

### **REMARKS**

This Amendment is submitted in reply to the Final Office Action dated August 2, 2004. Applicants respectfully request reconsideration and further examination of the patent application under 37 C.F.R. § 1.116.

Upon entry of the foregoing Amendment, Claims 1, 5-9, 37 and 41-42 are pending in the application. The amendments are believed to introduce no new matter, and their entry is respectfully requested. Based on the above amendment and the following remarks, Applicants respectfully request that the Examiner reconsider and withdraw all outstanding rejections.

#### **Examiner's Interview**

Applicants thank the Primary Examiner (Mrs. Jill Warden) for the telephonic interview held with Applicant's Attorney (William J. Tucker) on October 27, 2004. In accordance with the Primary Examiner's request, Applicant has amended FIGS. 3B and 3C and the specification to show and discuss the wall 320 between the wells 302a and 302b. The Primary Examiner also indicated that a new search will be required in view of the amendments to the claims.

#### **Summary of the Examiner's Rejections**

Claims 1, 5-9, 37 and 41-42 were rejected under 35 U.S.C. 112 (second paragraph) as being indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicants regard as the invention.

Claims 1, 5-7 and 9 were rejected under 35 U.S.C. 102(e) as being anticipated by CrystalClear Strips website downloaded 1/18/2001.

Claims 1, 5-7 and 9 were rejected under 35 U.S.C. 103(a) as being unpatentable over Hol (WO 00/00678) in view of McPherson (US 5,096,676).

Claims 1, 5-7 and 9 were rejected under 35 U.S.C. 103(a) as being unpatentable over Kim (US 6,039,804) in view of McPherson (US 5,096,676).

Claims 1, 5-7 and 9 were rejected under 35 U.S.C. 103(a) as being unpatentable over Stevens' "High-Throughput Protein Crystallization" in view of McPherson (US 5,096,676).

Claims 5, 6, 8, 37, 41 and 42 were rejected under 35 U.S.C. 103(a) as being unpatentable over CrystalClear Strips or Hol in view of McPherson or Kim in view of McPherson or Stevens in view of McPherson and further in view of Cassin (US 5,910,287) and/or Knebel (US 6,503,456) and/or Turner (US 6,340,589) and/or Santarsiero (US 6,296,673).

### Summary of Amendment

Applicants have amended Claims 1, 6, 37 and 42 to more particularly define the present invention.

Applicants have also amended the Drawings where the number "320" was added to FIGS. 3B and 3C to label a wall between the wells 302a and 302b. Applicants have also amended the specification to discuss the wall 320 which was shown located between the wells 302a and 302b in the originally filed FIGS. 3B and 3C.

### Remarks regarding §112 (second paragraph) rejection

Independent Claims 1 and 37 were rejected under 35 U.S.C. 112 (second paragraph) as being indefinite by the recitation of "nor is said first well entirely located around a perimeter of said second well" since it is unclear what structural limitation this is referring to. Applicants have deleted this language from independent Claims 1 and 37. As such, Applicants respectfully request the removal of this rejection.

### Remarks regarding § 102(e) and 103(a) rejections

Applicants respectfully submit that amended independent Claims 1 and 37 are patentable over CrystalClear Strips, Hol, Kim, Stevens' "High-Throughput Protein Crystallization", McPherson, Cassin, Knebel, Turner and/or Santarsiero. The claimed invention as recited in amended independent Claim 1 (for example) follows:

1. A microplate, comprising:  
a frame including a plurality of wells formed therein, each well including:  
a first well having a relatively small reservoir with a substantially concaved bottom; and  
a second well having a relatively large reservoir, wherein said first well is not entirely located within said second well nor is said first well entirely located outside of said second well but instead said first well and said second well share a wall that physically separates the small reservoir from the large reservoir in a manner that the small reservoir still has a portion of itself not counting the wall or space above the wall that overlaps a portion of said second well (emphasis on main distinguishing limitation).

Amended independent Claim 37 contains the same main distinguishing limitation which is recited in pending independent Claim 1.

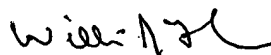
The Applicant's have amended independent Claims 1 and 37 such that they are clearly distinguishable over the cited references: CrystalClear Strips, Stevens' "High-Throughput Protein Crystallization", Hol and

Kim. In particular, Applicants submit that none of the cited references teach or suggest the following claimed limitation "said first well and said second well share a wall that physically separates the small reservoir from the large reservoir in a manner that the small reservoir still has a portion of itself not counting the wall or space above the wall that overlaps a portion of said second well". This configuration of a well can be seen in the microplate shown in FIGS. 3A-3C of the patent application. Instead, in each of the cited references, the small reservoir itself not counting the wall or the space above the wall is physically separated from and does not overlap the other well which has the large reservoir. This configuration is clearly shown in the FIGURES associated with the cited references as follows: CrystalClear Strips (FIG. CCLEAR-D/1); Stevens (FIG. 1B); Hol (FIG. 2); and KIM (FIG. 2). Again, the independent Claims 1 and 37 have been amended so that the small reservoir itself not counting the wall or the space above the wall is physically separated from and does overlap the second well which has the large reservoir. This limitation clearly distinguishes independent Claims 1 and 37 over the cited references and over the Examiner's interpretation of those references where she defined the wall and the space above the well as being the region in which the two wells overlapped. McPherson, Cassin, Knebel, Turner and/or Santarsiero do not cure this defect. Accordingly, Applicants respectfully submit that the aforementioned substantial difference between the cited references and the amended independent Claims 1 and 37 is indicative of the patentability of the present invention.

### Conclusion

Applicants respectfully submit that in view of the foregoing, all of the stated grounds of rejections have been properly traversed, accommodated, or rendered moot. Accordingly, Applicants respectfully request reconsideration of all outstanding rejections and allowance of pending Claims 1, 5-9, 37 and 41-42.

Respectfully submitted,



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**In the Drawings**

Enclosed is replacement sheet 3 where the number "320" was added to FIGS. 3B and 3C to label a wall between the wells 302a and 302b. Also, enclosed are original sheets 1-2 and 4-6. Applicants respectfully request that the Examiner and Draftsman review and approve these changes to FIGS. 3B and 3C.